IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.15252 of 2003
Date of Decision: 22.5.2007

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Rai Sahab and another Vs. Punjab Wakf Board and another

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Present : Mr.Sandeep Jasuja, Advocate for the petitioners.
Mr.D.N. Sarup, Advocate for respondent no.1.

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CORAM : HON'BLE MR.JUSTICE P. SATHASIVAM
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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RAJIVE BHALLA, J

Challenge in this writ petition is to an order dated 3.1.2003 passed by the Wakf Tribunal, Ferozepur, directing the petitioners ejectment.

The petitioners allege that they alongwith respondent no.2 are in possession of land measuring 43 Kanals 1 Marla, situated in Village Abohar. The said land was in possession of their father Thakar Ram since the year 1960. The respondent-Board is the owner of the land. The Board leased out the land to the petitioners but the lease money was accepted only upto the year 1988-89. The petitioners offered lease money on numerous occasions but to no avail. As the petitioners were threatened with dispossession, they filed a civil suit against the Board. In the meanwhile, the Board had leased out the land to Sudhir Kumar, Mangal Singh Aroora Ram and Bhagwan, who also filed a civil suit. Their application for interim

injunction was dismissed, as was an appeal. But while dismissing the appeal, the Additional Sessions Judge directed the petitioners, to deposit a sum of Rs.11,200/- per annum within one month. The revision filed by the petitioners before this Court was dismissed. Eventually, the suit filed by Sudhir etc. was dismissed by the trial Court and no appeal was preferred. The petitioners suit for permanent injunction was decreed on 29.4.1998.

The respondent-Board thereafter, filed a suit for possession before the Wakf Tribunal, Ferozepur, with respect to land measuring 10 Kanals alleging therein that the petitioners were in unauthorized possession. The petitioners, however, could not lead evidence. Their father expired on 1.8.2002 and as they were unaware of the pendency of the case, could not appear before the Tribunal. Their evidence was closed by order without granting sufficient opportunity. Thereafter, the learned Tribunal decreed the suit vide order dated 3.1.2003.

Counsel for the petitioners contends that no proper opportunity was granted to lead evidence in opposition to the claim set out by the Wakf Board. The petitioners father, who was defending the suit died. The petitioners were unaware of the proceedings and before they could put in appearance, their evidence was closed by order. It is contended that as due opportunity was not granted, the present petition be allowed.

Counsel for the Wakf Board on the other hand contends that the petitioners were granted sufficient opportunity and even otherwise, as they have even now failed to disclose any right, title or interest, whether as tenants or as owners, the present petition be dismissed.

We have heard learned counsel for the parties and perused the paper book.

The Wakf Board filed a petition for ejectment. The petitioners and respondent no.2, admitted the ownership of the Wakf Board but asserted that they were tenants of the land in dispute. The Tribunal, consequently, directed them to lead evidence in support of the aforementioned assertion. However, as they failed to adduce any evidence, the Tribunal, closed their evidence by order.

During the course of arguments, counsel for the petitioners was directed to refer to any document that would disclose a lease in favour of the petitioners. Counsel for the petitioners failed to refer to any document in support of the assertion that the petitioners were tenants. Instead, he contended that the petitioners had deposited rent as directed by the Assistant Collector, under Section 14 of the Punjab Security of Land Tenures Act, 1953. The aforementioned assertion is irrelevant as the provisions of the aforementioned Act do not apply to proceedings under the Wakf Act. As the petitioners failed to produce or refer to any evidence, that would prima facie indicate any right to remain in possession, we are satisfied that the petitioners are in unauthorised occupation of the land and only seek to perpetuate their illegal possession.

No merit.

Dismissed.

(RAJIVE BHALLA)
JUDGE

22.5.2007 (P. SATHASIVAM)
GS JUDGE